IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Revision No.171 of 2006.

Date of decision:27.11.2007

Chandu ….**Petitioner-Plaintiff**

Versus

Jaram Singh & Others ….**Respondents-Defendants**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

For the Petitioner: Mr.Ramakant Sharma, Advocate.

For the Respondents: None.

Dev Darshan Sud,J.

The respondents have been served by way of publication. Nobody appears on their behalf. They are proceeded ex-parte.

The present revision has been preferred by the plaintiff against the order passed by the learned trial Court rejecting his application under Order 1 Rule 10 of the Code of Civil Procedure praying for the deletion of the names of defendants No.5 to 7 and legal representatives of defendant No.8.

The learned trial Court has dismissed this application holding that no case is made out to allow the application to strike out the names of defendants No.5 to 7 and Legal Representatives of defendant No.8. It would be trite to observe that the plaintiff is the

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement***?

dominus-litus. In the present case the plaintiff did not wish to pursue his remedy, if any, against defendants No.5 to 7 and the Legal Representatives of defendant No.8. In case the suit is bad for non-joinder of necessary parties etc., the matter can be considered at the time of hearing or on an objection raised by the other contesting defendants. The learned trial Court has acted illegally in the exercise of its jurisdiction in rejecting the application and practically forcing the plaintiff to choose the defendants against whom he should file the case.

I do not find that this application has been considered by the learned trial Court in a proper manner or in accordance with law. This revision is accordingly allowed. The order of the learned trial Court is quashed and set aside. It is directed that the names of defendants No.5 to 7 and legal representatives of respondent No.8 shall be deleted from the array of defendants. The trial Court will proceed with the matter with expedition in accordance with law.

The Registry is directed to send back the record of the trial Court immediately. There shall be no order as to costs.

November 27, 2007 **(Dev Darshan Sud)**
(aks) **Judge**